

The opinion in support of the decision being entered today
was **not** written for publication and
is **not** binding precedent of the Board.

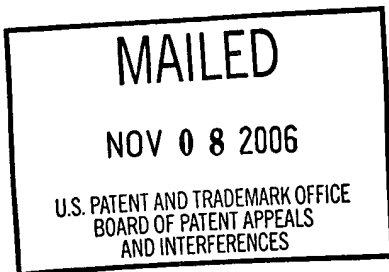
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOHN RODRIGUEZ, PATRICK LONGNEKER and SHEKHAR KIRANI

Appeal No. 2006-2028
Application No. 09/814,159
Technology Center 3600

ON BRIEF



Before FRANKFORT, LEVY and NAPPI, **Administrative Patent Judges**.

NAPPI, **Administrative Patent Judge**.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 of the examiner's rejection of claims 1 through 43. For the reasons stated *infra* we will not sustain the examiner's rejection of claims 1 through 43. Claims 44 through 50 have been canceled.

THE INVENTION

The invention relates to a method and system of tracking objects (e.g. documents, digital image data, etc). The system makes use of a media gateway which captures the incoming uploaded information. The information is maintained in a media vault. The system uses a tracking module which tracks online user activity associated with each object or asset and that object's interaction with the various vendors or partners that may

offer products or services on that network. See page 17 of appellants' specification.

Claim 1 is representative of the invention and is reproduced below:

1. A method for tracking transactions involving media assets on a data network, said data network being serviced by one or more service providers, the method comprising:

tracking information, at a media gateway, characterizing a particular media asset of interest that is uploaded to the media gateway associated with the data network, wherein the media gateway captures a plurality of media assets uploaded from a plurality of devices;

receiving a request to engage one or more of said service providers to perform one or more services for the particular media asset; and

tracking transaction information allowing billing of the requested services, wherein the transaction information includes information indicating which of the service providers performed a service for the particular media asset.

THE REFERENCES

The references relied upon by the examiner are:

Ginter et al. (Ginter)	5,892,900	Apr. 6, 1999
Chui et al. (Chui)	6,657,702	Dec. 2, 2003
		(filed Nov. 29, 1999)

THE REJECTIONS AT ISSUE

Claims 1 through 4, 6 through 25, and 27 through 43 stand rejected under 35 U.S.C. § 103 as being unpatentable over Ginter. The examiner's rejection is set forth on pages 3 and 4 of the answer. Claims 5 and 26 stand rejected under 35 U.S.C. § 103 as being unpatentable over Ginter in view of Chui. The examiner's rejection is set forth on page 5 of the answer. Throughout the opinion we make reference to the briefs and the answer for the respective details thereof.

OPINION

We have carefully considered the subject matter on appeal, the rejections advanced by the examiner and the evidence of obviousness relied upon by the examiner as support for the rejections. We have, likewise, reviewed and taken into consideration, in reaching our decision, Appellants' arguments set forth in the briefs along with the

examiner's rationale in support of the rejections and arguments in rebuttal set forth in the examiner's answer.

Appellants argue, on pages 3 and 4 of the brief, that Ginter does not teach the claimed media gateway. Appellants assert that media gateway as defined in the specification should be construed as a device that captures wireless and wireline uploads arriving from various devices and tracks information about the user session. Appellants state, on page 5 of the brief, "[a]ppellants' media gateway as described and claimed in the present application tracks information about the media asset and captures uploads from various devices"(emphasis original).

The examiner finds, on page 5 of the answer, that the term "gateway" refers to a device that connects networks using different communications protocols so that information can be passed from one to the other (citing the Microsoft Press Computer dictionary). Further, on page 6 of the brief, the examiner finds that Ginter "structurally and functionally discloses the features ascribed by appellant to his 'media' gateway" (the examiner relies upon Ginter's disclosure in column 39, lines 4-42 to support this finding). The examiner also finds that Ginter discloses tracking information about user sessions.

While we concur with the examiner that Ginter discloses a gateway and that the system tracks information about the user's sessions, we do not find that the examiner has carried the burden of establishing that Ginter teaches tracking information at the media gateway as is claimed in each of independent claims 1 and 22. The examiner bears the initial burden of establishing a *prima facie* case of obviousness. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). *See also In re Piasecki*, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984). It is the burden of the examiner to establish why one having ordinary skill in the art would have been led to the claimed invention by the express teachings or suggestions found in the prior art, or by the implications contained in such teachings or suggestions. *In re Sernaker*, 702 F.2d 989, 995, 217 USPQ 1, 6 (Fed. Cir. 1983).

Claim 1 recites "tracking information, at a media gateway, characterizing a particular media asset of interest that is uploaded to the media gateway associated with

the data network, wherein the media gateway captures a plurality of media assets uploaded from a plurality of devices.” Thus, regardless of which definition is applied to the term “media gateway” the claim specifically recites the media gateway as capturing uploads from other devices and that information associated with the upload is tracked at the media gateway. The examiner’s statement of rejection on page 3 of the answer does not specifically point out where Ginter teaches a gateway, but rather states that each of the entities shown in Ginter’s figure 1, may connect to the service provider. Nonetheless as appellants point out on page 5 of the brief, Ginter teaches using a gateway in his system of transmitting information, see item 734 of figure 12 and discussion in column 98, lines 45 through 60. We concur with the examiner’s finding that the system of Ginter broadly teaches tracking information transmitted or received during a user’s session. However, the examiner has not shown that Ginter teaches or makes obvious a gateway that captures uploads and also tracks information characterizing a particular media asset of interest at the media gateway as the particular asset is being uploaded to the gateway. We note: Ginter teaches in column 97, lines 32 through 35, that the Remote Procedure Calls (RPC) manager item 732 performs the function of tracking. Further, column 98, lines 57 through 61, discusses the gateway translating calls between elements of the rights operating system, not uploads from other devices. Thus, we do not find that the examiner has carried the burden of proving the obviousness of the method claimed in independent claim 1.

Claim 22 recites, “a media gateway module for capturing uploading of particular media asset of interest that is uploaded to the data network, wherein the media gateway module receives a plurality of media assets uploaded from a plurality of devices;” and “a module for tracking information at the media gateway, wherein the tracking information module tracks information characterizing the particular media asset.” Claim 22 is different in scope from claim 1. Nonetheless claim 22 similarly recites tracking information at the media gateway and that the media gateway captures uploads from other devices. Thus, we similarly do not find that the examiner has carried the burden of establishing the obviousness of the device claimed in independent claim 22.

Claims 2 through 4, 6 through 21 and 41 all ultimately depend upon claim 1 and claims 23 through 25, 27 through 40, 42, and 43 all ultimately depend upon claim 22. Accordingly, we will not sustain the examiner's rejection of these claims under 35 U.S.C. § 103 as being unpatentable over Ginter.


Claims 5 and 26 depend upon claims 1 and 22 respectively. The examiner has rejected these claims under 35 U.S.C. § 103 as being unpatentable over Ginter in view of Chui. The examiner has not asserted nor do we find that Chui teaches or suggests modifying Ginter to include the gateway and tracking features discussed with respect to claims 1 and 22. Accordingly, we will not sustain the examiner's rejection of claims 5 and 26.

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With full consideration being given to the subject matter on appeal, the examiner's rejections and the arguments of appellants and the examiner, for the reasons stated *infra* we will not sustain the examiner's rejections of claims 1 through 43 under 35 U.S.C. § 103.

REVERSED


CHARLES E. FRANKFORT
Administrative Patent Judge


STUART S. LEVY
Administrative Patent Judge


ROBERT E. NAPPI
Administrative Patent Judge

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